

EXHIBIT BB

Civil Action No. 20-cv-08905-CS
Affirmation of David K. Fiveson, Esq.

FILED: ROCKLAND COUNTY CLERK 10/26/2020 12:19 PM

INDEX NO. 034962/2020

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 10/26/2020

CONSUMER CREDIT TRANSACTION**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND****AMERICAN EXPRESS NATIONAL BANK,****Plaintiffs,****-against-****ISAAC LEFKOWITZ, INDIVIDUALLY
and TORAH OUTREACH PROJECT INC,****Defendants.****Plaintiff designates Rockland
County as the place of trial****Index No.** _____**Date Purchased:****SUMMONS****The basis of the venue
designated is:****Defendant's place of residence.****To: Isaac Lefkowitz, individually
2 Cedar Lane
Monsey, NY 10952****TORAH OUTREACH PROJECT INC
2 Cedar Lane
Monsey, NY 10952**

YOU ARE HEREBY SUMMONED and required to serve upon Plaintiffs' attorney, at the address stated below, an answer to the attached complaint.

If this summons was personally delivered to you in the State of New York, the answer must be served within twenty days after such service of summons, excluding the date of service.

If the summons was not personally delivered to you within the State of New York, the answer must be served within thirty days after service of the summons is complete as provided by law.

If you do not serve an answer to the attached complaint or otherwise appear within the applicable time limitation stated above, a judgment may be entered against you by default for the relief demanded in the complaint without further notice to you.

The action will be heard in the Supreme Court of the State of New York, in and for the County of Rockland, 1 South Main St., New City, NY 10956.

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INDEX NO. 034962/2020

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This action is brought in the County of Rockland because it is the place of defendant's residence, with an address at: 2 Cedar Lane, Monsey New York 10952.

Dated: October 8, 2020



Anthony J. Migliaccio, Jr., Esq.

Benjamin Marashlian, Esq.

X Alexander Fink, Esq.

Staff Attorneys for the Plaintiff,

AMERICAN EXPRESS NATIONAL BANK

successor by merger to American Express Bank,
FSB¹,

Please send all correspondence to:

AMERICAN EXPRESS LEGAL

P.O. Box 119

Suffern, NY 10901

(877) 305 -0433

AMERICAN EXPRESS LEGAL

American Express Tower

World Financial Center

200 Vesey Street 22nd Floor

New York, NY 10285

877-305-0433

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

AMERICAN EXPRESS NATIONAL BANK,

Plaintiff,

-against-

ISAAC LEFKOWITZ, INDIVIDUALLY
and TORAH OUTREACH PROJECT INC,
Defendants.

Index No.:

COMPLAINT

Plaintiff, AMERICAN EXPRESS NATIONAL BANK successor by merger to American Express Bank, FSB ("American Express"), by and through its attorneys, as and for its complaint herein against defendants Isaac Lefkowitz, individually ("Lefkowitz") and TORAH OUTREACH PROJECT INC, hereby alleges as follows:

The Parties

1. AMERICAN EXPRESS NATIONAL BANK successor by merger to American Express Bank, FSB¹ ("American Express"), a national bank under the laws of the United States of America with its office located at 115 W. Town Ridge Parkway, Sandy, Utah 84070 (hereinafter singularly or collectively referenced as "American Express").

2. Upon information and belief, at all relevant times, Lefkowitz was and is an individual, who resides in the State of New York, County of Rockland, at 2 Cedar Lane, Monsey, New York 10952.

3. Upon information and belief, at all relevant times, TORAH OUTREACH PROJECT INC was and is a business whose principal address is the State of New York, County of Rockland, 2 Cedar Lane, Monsey, New York 10952.

[1] On April 1, 2018 American Express Bank FSB, merged with American Express National Bank with American Express National Bank as the surviving entity after the merger. See, <https://www.occ.treas.gov/topics/licensing/interpretations-and-actions/2018/interpretations-and-actions-jan-2018.html>. See also, 12 U.S.C. § 1828 et seq

The Facts**The American Express Business Platinum Card Account**

4. At all relevant times, Lefkowitz, authorizing officer for TORAH OUTREACH PROJECT INC was the holder of an American Express Business Platinum Card (the "Business Platinum Card") that enabled him/her to charge items to the Business Platinum Card account (account no. xxxx-xxxxxx-x9009) (the "Business Platinum Card" Account).

5. By accepting and using the Business Platinum Card, Lefkowitz and TORAH OUTREACH PROJECT INC jointly and individually agreed to all of the terms and conditions set forth in the "Business Platinum Card Agreement" (the "Agreement"), which was provided to Lefkowitz and TORAH OUTREACH PROJECT INC with the Business Platinum Card.

6. The terms and conditions of the Agreement between the Card Member and American Express include the following:

- a. Lefkowitz and TORAH OUTREACH PROJECT INC agreed to be responsible for paying all amounts charged to the American Express Business Platinum Card Account.
- b. Lefkowitz and TORAH OUTREACH PROJECT INC agreed to pay the "Minimum Amount Due" by the due date indicated on the monthly billing statements mailed by or on behalf of American Express.
- c. Lefkowitz and TORAH OUTREACH PROJECT INC agreed that American Express may impose late fees, in amounts set forth in the Agreement, on all unpaid amounts.
- d. Lefkowitz and TORAH OUTREACH PROJECT INC further agreed that, upon "default" (as that term is used in the Agreement) they would pay all reasonable costs incurred by American Express in protecting itself from any harm it may suffer as a result of any such default.

The Default

FILED: ROCKLAND COUNTY CLERK 10/26/2020 12:19 PM

INDEX NO. 034962/2020

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 10/26/2020

7. Lefkowitz and TORAH OUTREACH PROJECT INC used the Business Platinum Card to charge various items to the Business Platinum Card Account for which he/she never made payment.

8. American Express sent monthly statements to Lefkowitz and TORAH OUTREACH PROJECT INC for the Account, showing the Minimum Amount Due on the Business Platinum Card Account.

9. Lefkowitz and TORAH OUTREACH PROJECT INC violated the Agreement by refusing to remit the Minimum Amount Due indicated by the monthly statements.

10. Lefkowitz and TORAH OUTREACH PROJECT INC's failure to pay the Minimum Amount Due constituted a default under the Agreement and lead to the account becoming delinquent. As a result, American Express suspended Lefkowitz and TORAH OUTREACH PROJECT INC's charge privileges on the Business Platinum Card Account and the outstanding balance became due in its entirety.

11. Thus, due to Lefkowitz and TORAH OUTREACH PROJECT INC's failure to remit timely payment to American Express, there is due and owing to American Express the balance of \$34,382.74.

AS AND FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

12. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 11 of this complaint as though fully set forth at length herein.

13. In violation of the Agreement requiring payment of the Minimum Amount Due on the Business Platinum Card Account, Lefkowitz and TORAH OUTREACH PROJECT INC have failed and refused to make the payments to American Express as set forth in the Business Platinum Card monthly statements. As a result, American Express suspended Lefkowitz and TORAH OUTREACH PROJECT INC's charge privileges on the Business Platinum Card Account.

FILED: ROCKLAND COUNTY CLERK 10/26/2020 12:19 PM

INDEX NO. 034962/2020

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14. Lefkowitz and TORAH OUTREACH PROJECT INC agreed to pay for all items charged to the Business Platinum Card Account. In addition, Lefkowitz and TORAH OUTREACH PROJECT INC agreed to pay American Express late fees and court costs in the event that American Express referred the Business Platinum Card Account to its attorneys for collection.

15. As set forth above, Lefkowitz and TORAH OUTREACH PROJECT INC are currently indebted to American Express for unpaid charges in the amount of \$34,382.74.

16. Despite due demand, Lefkowitz and TORAH OUTREACH PROJECT INC have failed and refused to pay American Express any portion of the amount due and owing.

17. As a result of Lefkowitz and TORAH OUTREACH PROJECT INC's failure to pay the amount that he/she owes, American Express referred its claim against Lefkowitz and TORAH OUTREACH PROJECT INC to its attorneys for collection.

18. By reason of the foregoing, American Express is entitled to judgment against Lefkowitz and TORAH OUTREACH PROJECT INC for breach of contract in the sum of \$34,382.74, plus court costs.

AS AND FOR A SECOND CAUSE OF ACTION
(Account Stated)

19. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 18 of this complaint as though fully set forth at length herein.

20. American Express duly issued and sent to Lefkowitz and TORAH OUTREACH PROJECT INC, the Business Platinum Card monthly statements which set forth in detail all items charged to the Business Platinum Card Account and the total amount due and owing by Lefkowitz and TORAH OUTREACH PROJECT INC to American Express on the Business Platinum Card Account.

21. Lefkowitz and TORAH OUTREACH PROJECT INC received the Business Platinum Card monthly statements without protest and neither objected to them nor indicated

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INDEX NO. 034962/2020

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that they were erroneous in any respect. Lefkowitz and TORAH OUTREACH PROJECT INC thereby acknowledged that the debt owed to American Express, as set forth in the Business Platinum Card monthly statements, is true and correct.

22. By reason of the foregoing, American Express is entitled to judgment against Lefkowitz and TORAH OUTREACH PROJECT INC for an account stated in the amount of \$34,382.74 plus court costs.

AS AND FOR A THIRD CAUSE OF ACTION
(Unjust Enrichment)

23. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 22 of this complaint as though fully set forth at length herein.

24. Lefkowitz and TORAH OUTREACH PROJECT INC benefited from all of the charges made to the Business Platinum Card Account, have acknowledged receipt of those benefits, and has failed to pay for same.

25. Given Lefkowitz and TORAH OUTREACH PROJECT INC's failure to make payment for the outstanding balance owed with respect to the Business Platinum Card Account, and the fact that Lefkowitz and TORAH OUTREACH PROJECT INC were the beneficiaries of all items charged to the Business Platinum Card Account, Lefkowitz and TORAH OUTREACH PROJECT INC would be unjustly enriched to American Express's detriment unless judgment is entered against them for the full balance due and owing on the Business Platinum Card Account.

26. As set forth above, Lefkowitz and TORAH OUTREACH PROJECT INC have been unjustly enriched to American Express's detriment.

27. By reason of the foregoing, American Express is entitled to judgment against Lefkowitz and TORAH OUTREACH PROJECT INC for unjust enrichment in an amount to be determined at trial, plus court costs.

FILED: ROCKLAND COUNTY CLERK 10/26/2020 12:19 PM

INDEX NO. 034962/2020

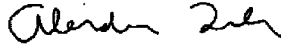
NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 10/26/2020

WHEREFORE, plaintiff AMERICAN EXPRESS NATIONAL BANK requests judgment against defendants, Isaac Lefkowitz, individually and TORAH OUTREACH PROJECT INC as follows:

- (i) As for the first cause of action, plaintiff AMERICAN EXPRESS NATIONAL BANK requests judgment in the sum of \$34,382.74 plus court costs;
- (ii) As for the second cause of action of the complaint, plaintiff AMERICAN EXPRESS NATIONAL BANK requests judgment in an amount of \$34,382.74 plus court costs;
- (iii) As for the third cause of action, plaintiff AMERICAN EXPRESS NATIONAL BANK requests judgment in an amount to be determined at trial, plus court costs; and
- (iv) For such other and further relief as this Court deems just and proper.

Dated: October 8, 2020



Anthony J. Migliaccio, Jr., Esq.

Benjamin Marashlian, Esq.

x Alexander Fink, Esq.

Staff Attorneys for the Plaintiff,

**AMERICAN EXPRESS NATIONAL BANK
successor by merger to American Express Bank,
FSB¹,**

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Rule 130-1.1a

Pursuant to 22 NYCRR 130-1.1a, the undersigned attorney hereby certifies under the penalties of perjury and as an officer of the court that to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of this document or the contentions therein are not frivolous.


Anthony J. Migliaccio, Jr., Esq.
Benjamin Marashlian, Esq.
☒ Alexander Fink, Esq.

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AMERICAN EXPRESS NATIONAL BANK,

Plaintiffs,

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-against-

ISAAC LEFKOWITZ, INDIVIDUALLY
and TORAH OUTREACH PROJECT INC,

Defendants.

SUMMONS AND COMPLAINT

Plaintiff

AMERICAN EXPRESS LEGAL



Anthony J. Migliaccio, Jr., Esq.

Benjamin Marashlian, Esq.

x Alexander Fink, Esq.

Staff Attorneys for the Plaintiff,

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successor by merger to American Express Bank,
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